

REMARKS

Claim 25 is canceled herein without prejudice to its patentability. Claims 1-24 will be pending upon entry of this Amendment.

I. Response to Restriction Requirement

A. Provisional Election

The Office action sets forth a restriction requirement as follows:

Group I: claims 1-14 directed to a friction clutch assembly including a cover, a pressure plate, a spring, and a spacer classified by the Examiner in class 192, subclass 70.19,

Group II: claims 15-19 directed to a friction clutch assembly including a cover, a pressure plate, and a spring classified by the Examiner in class 192, subclass 70.27,

Group III: claims 20-24 directed to a cover for a friction clutch assembly classified by the Examiner in class 192, subclass 112, and

Group IV: claim 25 directed to a method of indexing at least one spacer of a friction clutch assembly; classified in class 29, subclass 402.03.

The Examiner has set forth a three-way restriction requirement between the four groups of claims and requested an election between the claims of Group I, the claims of Group II and III, and the claim of Group IV.

As required by 37 C.F.R. 1.143, applicant provisionally elects the claims of Group II and III (claims 15-24) for examination in the event that the restriction requirement is made final. Applicant respectfully traverses the requirement for restriction between the claims of Group I (claims 1-14) and the claims of Group II and III (claims 15-24). Applicant expressly reserves the right to file divisional applications directed to subject matter of the non-elected claims.

B. Relative Burdens Upon the Office and the Applicant

Applicant asks the Examiner to consider the relative burdens on himself and the applicants in examining the claims of Group I, II and III in a single application. In order for a reliable

search to be conducted for the claims of Group I and II, the classes and subclasses identified for both Group I and II will have to be searched. The Examiner classifies the Group I claims in class 192 identified as clutches and power-stop control and subclass 70.19 identified as clutch assemblies with axially slidable connections. The Examiner classifies the claims of Group II in class 192 and subclass 70.27 identified as clutch assemblies with spring means to move clutch element axially. Applicant submits that because of the similarity of the subclass definition of the Group I and Group II claims, both requiring axially slidable or moveable clutch assemblies, both subclasses will have to be searched for a reliable search to be conducted on either the claims of Group I or the claims of Group II. Accordingly, examining the claims of Group I and II together will present a minimal burden on the Examiner.

Applicant further emphasizes that the Office often examines applications that are classified in both class 192, subclass 70.19 and class 192, subclass 70.27. Recently issued patents classified in both the class/subclass designation of the Group I and Group II claims of the present invention include the following:

- (1) U.S. Patent No. 6,609,601 (August 2003)
FRICTION CLUTCH
- (2) U.S. Patent No. 6,409,002 (February 2003)
PRESSURE PLATE SUBASSEMBLY
- (3) U.S. Patent No. 5,950,786 (September 1999)
DISK CLUTCH ASSEMBLY

While this is not controlling on the Office in the present case, Applicant respectfully requests that it be taken into account when weighing the relative burdens of the two parties and the overlapping, if not identical, nature of the respective searches required.

Furthermore, maintaining claims 1-24 in the application should not add more than a minimal burden that the applicants has minimized by including only 24 total claims for the claims of

Group I, II and III. In this regard, the Examiner is asked to consider M.P.E.P. § 803:

"If the search and examination can be made without serious burden, the examiner must examine it on the merits, even if it includes claims to distinct or independent inventions." (emphasis added)

Applicant respectfully submit that the burden of examining the additional 14 claims having an overlapping search field cannot fairly be said to be "serious." In contrast, applicant would incur filing fees of at least \$1000, issue fees of at least \$1400, and maintenance fees of at least \$7000 if required to prosecute and maintain a second application/patent, such fees being in addition to the similar fees to be incurred in this first application.

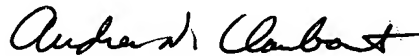
In view of the foregoing, applicant respectfully asks the Examiner to withdraw the restriction requirement and examine the claims of Group I, II, and III.

II. Conclusion

Favorable consideration and allowance of claims 1-24 is respectfully requested.

Enclosed is a check for the payment of a two-month extension of time for filing this response. The Commissioner is authorized to charge any fee deficiency or credit any overpayment to Deposit Account No. 19-1345 in the name of Senniger Powers.

Respectfully submitted,



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